6A/49

1949. **File No.** OBCCTRO/49

Legal Department

G BRANCH

Subject:— Opinion on the Bombay Cotton Trade Regulation Order, 1945

1949

23/C

File No. O. RCCTRO/49

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C O N T E N T .

Legal Department File No. C/BCCTRC/49.

Sr. No.	B. T. C/No.	Subject.	Pages.
		Opinions under the Bombay Cotton Cloth Trade Regulation Order, 1945.	
1)	C/92 27-1-49.	Under what provision of law the two merchants M/s Kantanali and Hatapaki, of Gokale could be prosecuted for selling cloth though their licenses were cancelled. (Copies not made).	1-4.
2)	C/27 10-1-1949.	Whether the suit, notice of which was served on Govt. by M/s Chandulal Chunilal, Ahmedabad claiming Rs. 3141 As. 4 from Govt. as damages, insurance etc. alleged to be due to the party owing to the textile authorities having debarred them from disposing of their stock of the bales of bandage cloth wrongfully and maliciously, would be defensible. (Copies not made).	5-10.
3)	C/231 24-3-1949.	Clause 3 Whether Mr. Patil is liable to be prosecuted for (1) storing cloth for sale without a valid license and (2) furnishing false information in the application form for renewal of Printor's Licence under the Bombay Hand Printers Licensing Order 1944.	11-14.

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The question for consideration is whether Mr. Patil is liable to be prosecuted for the following two offences :-

1) Storing cloth for sale without a valid licence under the ~~Bombay~~ Cotton Cloth Trade Regulation Order, 1945; and

(1) Furnishing false information in the application form for renewal of the Printer's Licence under the Bombay Hand Printers Licensing Order, 1944.

As regards the first offence, the enquiries made by the Police revealed that Mr. Patil used to receive bales from the Printing and Dyeing Works Owners Association for printing only and after ~~printing~~ printing the bales, the same were returned to the Association. The Police Prosecutor, Mr. Rane has opined thatsuch dealings cannot be construed as sale or storage for sale in the technical sense and hence Mr. Patil cannot be held liable under clause 3 of the Bombay Cotton Cloth Trade Regulation Order, 1945. The view expressed by the Police Prosecutor is correct. As Mr. Patil merely did the business of printing the cloth and as he was not carrying on the business of buying or selling or storing for sale cloth, he is not a 'dealer' and he is not therefore liable to be prosecuted for breach of clause3 of the Bombay Cotton Cloth Trade Regulation Order.

As regards the second offence however the view taken by the Police Prosecutor does not appear to be correct. Mr. Patil has furnished incorrect information in the application form for renewal of the Printer's licence under the Bombay Hand - printers Licensing Order, 1944. The sale Deed

at page 49 shows that Mr. Patil was the sole proprietor of the concern Indianess Prints and Industries when he made the application for renewal through his clerk Mr. Joshi on 12-11-46 (Please also see his statement at page 11 of Police enquiry papers). Against item 4 'names and addresses of all partners' he has entered the names of the six original partners instead of entering his name as the sole proprietor. Presumably this was with a view to avoid enquiry by the licensing authority regarding the transfer of the licence. The Police Prosecutor says thatthough the tactics of Mr. Patil were malafide, no action against him was feasible because there was no provision in the Bombay Hand-printers Licensing Order, 1944 making such tactics penal. It is true that under clause 9 of the said order the only penalty for supplying incorrect information in an application under clause 4 is suspension or cancellation of licence and as no licence was issued to Mr. Patil in respect of the said application no such action was possible. However it is made clear in the said clause that cancellation or suspension shall be without prejudice to any other action that may be taken against the holder. The incorrect information was furnished when the Essential Supplies (Temporary Powers) Ordinance, 1946 was in force and the offence committed by Mr. Patil falls under section 12 (corresponding to section 10 of the Essential Supplies (Temporary Powers) act) thereof. Mr. Patil may be prosecuted under that section and his clerk Mr. Joshi may be prosecuted as an abettor.

Sd/- 23/3

Remembrancer of Legal Affairs.

C.P. tothe A.C.C. No. G/231, dated 24-3-49.